

112TH CONGRESS
1ST SESSION

S. 1637

To clarify appeal time limits in civil actions to which United States officers or employees are parties.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2011

Ms. KLOBUCHAR (for herself and Mr. SESSIONS) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To clarify appeal time limits in civil actions to which United States officers or employees are parties.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Appeal Time Clarifica-
5 tion Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) section 2107 of title 28, United States
9 Code, and rule 4 of the Federal Rules of Appellate
10 Procedure provide that the time to appeal for most

1 civil actions is 30 days, but that the appeal time for
2 all parties is 60 days when the parties in the civil
3 action include the United States, a United States of-
4 ficer, or a United States agency;

5 (2) the 60-day period should apply if one of the
6 parties is—

7 (A) the United States;

8 (B) a United States agency;

9 (C) a United States officer or employee
10 sued in an official capacity; or

11 (D) a current or former United States offi-
12 cer or employee sued in an individual capacity
13 for an act or omission occurring in connection
14 with duties performed on behalf of the United
15 States;

16 (3) section 2107 of title 28, United States
17 Code, and rule 4 of the Federal Rules of Appellate
18 Procedure (as amended to take effect on December
19 1, 2011, in accordance with section 2074 of that
20 title) should uniformly apply the 60-day period to
21 those civil actions relating to a Federal officer or
22 employee sued in an individual capacity for an act
23 or omission occurring in connection with Federal du-
24 ties;

1 (4) the civil actions to which the 60-day periods
 2 should apply include all civil actions in which a legal
 3 officer of the United States represents the relevant
 4 officer or employee when the judgment or order is
 5 entered or in which the United States files the ap-
 6 peal for that officer or employee; and

7 (5) the application of the 60-day period in sec-
 8 tion 2107 of title 28, United States Code, and rule
 9 4 of the Federal Rules of Appellate Procedure—

10 (A) is not limited to civil actions in which
 11 representation of the United States is provided
 12 by the Department of Justice; and

13 (B) includes all civil actions in which the
 14 representation of the United States is provided
 15 by a Federal legal officer acting in an official
 16 capacity, such as civil actions in which a Mem-
 17 ber, officer, or employee of the Senate or the
 18 House of Representatives is represented by the
 19 Office of Senate Legal Counsel or the Office of
 20 General Counsel of the House of Representa-
 21 tives.

22 **SEC. 3. TIME FOR APPEALS TO COURT OF APPEALS.**

23 Section 2107 of title 28, United States Code, is
 24 amended by striking subsection (b) and inserting the fol-
 25 lowing:

1 “(b) In any such action, suit, or proceeding, the time
2 as to all parties shall be 60 days from such entry if one
3 of the parties is—

4 “(1) the United States;

5 “(2) a United States agency;

6 “(3) a United States officer or employee sued
7 in an official capacity; or

8 “(4) a current or former United States officer
9 or employee sued in an individual capacity for an act
10 or omission occurring in connection with duties per-
11 formed on behalf of the United States, including all
12 instances in which the United States represents that
13 officer or employee when the judgment, order, or de-
14 cree is entered or files the appeal for that officer or
15 employee.”.

16 **SEC. 4. EFFECTIVE DATE.**

17 The amendment made by this Act shall take effect
18 on December 1, 2011.

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